

Appl. No. : 09/901,764
Filed : July 10, 2001

REMARKS

By way of the present amendment, Applicant has amended Claims 1, 14, and 16. Additionally, Applicant has canceled Claim 15 and added new claims 17-32.

Claim Rejections - 35 U.S.C. § 102 in view of Berg

Claims 1-3, and 14-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,048,362 to Berg. While Applicant disagrees with the rejection, nevertheless, Applicant has amended Claims 1, 14, and 16 to expedite prosecution.

Berg discloses a fluoroscopically-visible graft structure. *See* Abstract. The graft structure is formed from a tubular metal wire mesh coated with an elastomeric material. *Id.* The graft structure is flexible and distensible like natural body organ tubing and is used for replacing body organ tubing such as vascular tubing. *Id.* The graft structure may carry a radiopaque filler compound so that a physician can determine the size and location of the graft structure during implantation. *Id.* The graft is used to replace or repair a patient's weakened or diseased body organ tubing, such as in the case of an aneurysm. It may also be used to bypass a section of diseased or blocked body organ tubing with an artificial graft tubing. As such, Berg teaches a tube-like device for reestablishing normal fluid flow therethrough.

In contrast to this teaching, amended Claim 1 recites, *inter alia*, a constriction device “to constrict and collapse the tissue of the body organ therein and remain associated with the body when released from the expanded condition, at least a portion of the sleeve being visible under X ray fluoroscopy.” Similarly, Claim 14 recites, *inter alia*, a device “for constricting and collapsing the body organ tissue.” Finally, Claim 16 recites a method including, among others, the step of “constricting and collapsing the body tissue within the sleeve.”

Berg does not anticipate the invention of Claims 1, 14, and 16. Accordingly, Applicant submits that Claims 1, 14, and 16 each define over Berg. In addition, the claims that depend from these claims are each patentable over Berg, both because they depend from independent claims that define over Berg, and also because they each recite a unique combination of features not taught or disclosed by Berg.

Claim Rejections - 35 U.S.C. § 102 in view of Gittings

Claims 1, 4-13, 14, and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,361,557 to Gittings, et al. (“Gittings”).

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Gittings teaches an endoluminal prosthesis having positioning indicating elements to facilitate deployment of the prostheses within body lumens. See Abstract. The graft, or stentgraft, is used to reinforce an area of weakened or diseased tissue. Col. 1, lines 21-25. The graft is introduced through a catheter in a radially compressed configuration, and then radially expands, thereby engaging and sealing against the endolithium of the healthy vessel wall both upstream and downstream of the weakened, distended aneurysm. *Id.*, at lines 58-63. Thus, Gittings teaches a device used to support and allow normal flow through the vessel.

In contrast, Claim 1 recites, *inter alia*, a constriction device “to constrict and collapse the tissue of the body organ therein and remain associated with the body when released from the expanded condition, at least a portion of the sleeve being visible under X ray fluoroscopy.” Claim 14 recites, *inter alia*, a device “for constricting and collapsing the body organ tissue.” Finally, Claim 16 recites a method including, among others, the step of “constricting and collapsing the body tissue within the sleeve.”

Nowhere does Gittings teach the claimed invention. Specifically, Gittings teaches a device that expands radially when released from the confines of the introducing catheter, which does not result in the claimed invention. Accordingly, Applicant submits that Claims 1, 14, and 16 each define over Gittings and are thus in condition for allowance. Furthermore, the claims that depend from these independent claims are also in condition for allowance.

New Claims

New claims 17-32 have been added, and Applicant submits that these claims each recite a unique combination of features not taught or disclosed by the prior art references, either alone or in combination.

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CONCLUSION

Claims 1, 14, and 16 have been amended and Applicant believes them to be in condition for allowance. Claim 15 has been canceled, and new Claims 17-32 have been added. Claims 1-14, and 16-32 remain pending for consideration.

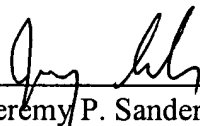
Applicant has endeavored to respond to each of the issues raised by the Examiner. However, if there remain any unresolved issues that could be resolved via a telephone conference, Applicant invites the Examiner to initiate the same with Applicant's representative at the telephone number shown below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 9 Oct 2003

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